

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

MICHAEL LAVON GIPSON,

Petitioner,

v.

WILLIAM STEPHENS,

Respondent.

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CIVIL ACTION H-06-0987

ORDER

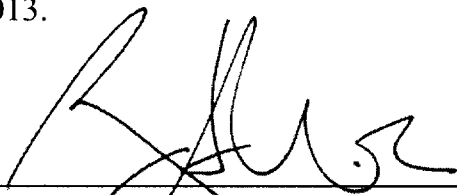
The Court dismissed this *pro se* section 2254 habeas lawsuit on April 5, 2007. On July 1, 2013, petitioner filed a *pro se* motion for a certificate of appealability (Docket Entry No. 35). Because both this Court and the Fifth Circuit Court of Appeals have previously denied petitioner a certificate of appealability regarding the 2007 dismissal, the Court liberally construes petitioner's motion as one brought pursuant to Rule 60(b) of the Texas Rules of Civil Procedure.

Petitioner's motion raises claims of actual innocence based on allegations of new evidence. These challenges to his conviction were not raised in any prior section 2254 petition, and constitute successive habeas claims. *See Gonzalez v. Crosby*, 545 U.S. 524, 532 (2005). Petitioner admits that he has not received authorization from the Fifth Circuit Court of Appeals to pursue these claims in a successive section 2254 proceeding. *See* 28 U.S.C.

§ 2244(b)(3). Accordingly, this Court is without jurisdiction to consider petitioner's new habeas claims or to authorize his pursuit of the claims.

Accordingly, this action is DISMISSED FOR LACK OF JURISDICTION AND WITHOUT PREJUDICE to petitioner's obtaining authorization from the Fifth Circuit Court of Appeals to proceed on any new claims. Any and all pending motions are DENIED AS MOOT. A certificate of appealability is DENIED.

Signed at Houston, Texas on July 9, 2013.



Gray H. Miller
United States District Judge